



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2021

CORAM:

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM

AND

The Hon'ble Mrs.JUSTICE S.ANANTHI

W.P. (MD) .No.5002 of 2021

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Harikrishnan

...Petitioner

Vs.

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
- 2.The Revenue Divisional Officer,
Cheranmahadevi Sub-Division,
Tirunelveli District.
- 3.The Tahsildar,
Cheranmahadevi Taluk,
Tirunelveli District.
- 4.The Executive Officer,
Selection Grade Panchayat,
Mukkoodal,
Tirunelveli District.
- 5.K.Chinnadurai
- 6.Devasakayam
- 7.C.Arul Lawrence

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a writ of Mandamus, directing the respondents 1 to 4 to remove the encroachments made by the respondents 5 to 7 and demolish the offending construction put up over the water channel running through S.No:39/6B of Mukkoodal Village, Tirunelveli District and retrieve the same to its original position so that surplus water gets free flow towards Thamirabarani river by considering the petitioner's representation dated 21.12.2020.

For Petitioner : Mr.S.Prabhu
For Respondent : Mr.R.Baskaran
Standing Counsel for Government
for R1 to R3.
Mr.G.Prabhu Rajadurai for R6

O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

With the consent on either side, the Writ Petition itself is taken up for final disposal.



2. Heard Mr.S.Prabhu, learned Counsel appearing for the petitioner, Mr.R.Baskaran, learned Standing Counsel for Government appearing for the respondents 1 to 3 and Mr.G.Prabhu Rajadurai, learned Counsel appearing for the sixth respondent.

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3. The petitioner seeks for a direction upon the respondents 1 to 4 to remove the encroachments made by the respondents 5 to 7 and demolish the offending construction put up over the water channel running through S.No:39/6B of Mukkoodal Village, Tirunelveli District and retrieve the same to its original position so that surplus water gets free flow towards Thamirabarani river by considering his representation dated 21.12.2020.

4. Learned Counsel appearing for the sixth respondent submits that there is no encroachment. Learned Government Counsel on the other hand who has been instructed by the third respondent states that there is encroachment and there is unauthorised construction.

5. It is not clear as to why the authorities are not taking any appropriate action in respect of the matters being within their knowledge. Therefore, we may be justified in inferring that there is collusion between the authorities and various private parties in the matter of encroachment. In the instant case, the sixth respondent emphatically states that the property is a Natham property and the authorities cannot take any action against the construction. In any event, the appropriate authority, namely, the third respondent or the fourth respondent should look into the complaint and take appropriate action in accordance with law. Needless to state that notices have been issued not only to the respondents 5 to 7 but also to the petitioner and enquiry has to be conducted and the documents which the private respondents may produce should be considered and thereafter, decision be taken in accordance with law. This direction be complied with within a period of eight [8] weeks from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

MR

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official

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purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector,
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Tirunelveli.
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Tirunelveli District.
- 3.The Tahsildar,
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- 4.The Executive Officer,
Selection Grade Panchayat,
Mukkoodal,
Tirunelveli District.

+ 1CC to M/s.G.PRABHU RAJA DURAI,Advocate (SR-22073[F]dated 12/07/2021)

+1 CC to M/s.SPL GP (SR-22125[F] dated 12/07/2021)

+2 CC to M/s.S.PRABHU, Advocate (SR-22184[F] dated 12/07/2021)

W.P. (MD) .No.5002 of 2021

Dated:**09.07.2021**

RK (16.07.2021) 3P 9C